

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-2302

United States of America,

Appellee,

v.

Jose Manuel Garcia-Garcia, also
known as Jose Garcia-Garcia, also
known as Javier Pena-Pena, also known
as Jonathan Samaniego-Lopez, also
known as Emilio Aguilar-Fuentez, also
known as Javier Garcia-Pena, also
known as Juan Natalio Luna-Pena, also
known as Enrique Salsedo,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.
[UNPUBLISHED]

Submitted: December 7, 2001

Filed: December 13, 2001

Before WOLLMAN, Chief Judge, HANSEN, and MORRIS SHEPPARD ARNOLD,
Circuit Judges.

PER CURIAM.

Jose Manuel Garcia-Garcia pleaded guilty to illegal reentry following
deportation after conviction for an aggravated felony, in violation of 8 U.S.C.

§ 1326(a) and (b)(2), and the district court¹ sentenced him to 77 months imprisonment and 2 years supervised release. On appeal, counsel has moved to withdraw under Anders v. California, 386 U.S. 738 (1967), and filed a brief arguing that Garcia-Garcia should have received a downward departure because he took extraordinary actions in accepting responsibility.

At sentencing, the district court acknowledged its authority to depart, and thus its discretionary decision not to depart under the circumstances in this case is unreviewable. See United States v. Lim, 235 F.3d 382, 385 (8th Cir. 2000).

Moreover, following our independent review, see Penson v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues. Accordingly, we affirm the sentence, and we grant counsel's motion to withdraw.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.

¹The Honorable Richard G. Kopf, Chief Judge, United States District Court for the District of Nebraska.